

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose new §27.86 relating to Veteran Discount Program to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed new section, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the new §27.86 is proposed for adoption and is authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:

DocuSigned by:

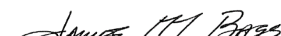
Rick Nelson

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Director, Toll Operations Division

Recommended by:

DocuSigned by:

James M. Bass

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Executive Director

115853 Sept. 24, 2020

Minute Number	Date Passed
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Proposed Preamble

The Texas Department of Transportation (department) proposes new §27.86 concerning the Veteran Discount Program.

EXPLANATION OF PROPOSED NEW SECTION

Transportation Code, §372.053, provides that a toll project entity, including the department, may establish a discount program for electronic toll collection customers. Such a program must include free or discounted use of the entity's toll project by an electronic toll collection customer whose account relates to a vehicle registered under Transportation Code, §504.202 or §504.315(f) or (g). S.B. 1091, 86th Regular Session, 2019, amended §372.053 by adding new subsection (a-2), which provides that a toll project entity may limit to no more than two the number of transponders issued to a participant in the entity's program for which free or discounted use of the entity's toll project is provided. A toll project entity that adopts a limit shall allow a participant to be issued one extra transponder on a demonstration of hardship by the participant, as determined by the entity.

New §27.86 describes the method by which the department will implement the statutory changes described above, including the number of transponders (tags) that will be issued to eligible customers and the process for issuance of an additional tag based on financial hardship.

1 New §27.86(a) sets forth the purpose of the rule, which is to
2 implement Transportation Code, §372.053.

3
4 New §27.86(b) acknowledges that the Texas Transportation
5 Commission (commission), by minute order, may adopt a policy
6 defining the circumstances under which free or discounted
7 passage will be granted on department toll projects, in
8 accordance with Transportation Code, §372.053. The subsection
9 further specifies that subsections (c) - (f) will apply to free
10 or discounted use of department toll projects by eligible
11 vehicles, as defined by commission minute order. The commission
12 has already adopted such a policy, which can be found in Minute
13 Order 115270, dated July 26, 2018. For purposes of subsections
14 (c) - (f), the term "owner" means a veteran who is the
15 registered owner of the eligible vehicle according to the
16 records of the Texas Department of Motor Vehicles.

17
18 New §27.86(c) provides that to receive free or discounted use of
19 department toll projects, the owner of an eligible vehicle must
20 establish an electronic toll collection customer account and
21 register the eligible vehicle and the tag affixed to that
22 vehicle through a process prescribed by the department.
23 Customers who have already established an electronic toll
24 collection customer account with the department or another toll
25 project entity in Texas will still be required to register the
26 eligible vehicle and tag affixed to that vehicle. This

1 registration process will enable the department to manage the
2 program in an efficient and effective manner.

3
4 New §27.86(d) limits free or discounted use of department toll
5 projects to one eligible vehicle, except as provided by
6 subsection (e). The department originally implemented the
7 veteran discount program in December of 2012. Prior to the
8 enactment of S.B. 1091, the department did not have authority to
9 limit the number of vehicles per veteran and applied the waiver
10 to tolls incurred by all eligible vehicles. Because free
11 passage on department toll projects may only be granted as
12 allowed under applicable trust agreements or indentures, the
13 agency is required to reimburse the Central Texas Turnpike
14 System (CTTS) for any difference in toll revenue resulting from
15 a rate change applied through the program. The commission
16 previously approved the use of payments received from the SH 130
17 Comprehensive Development Agreement to cover those
18 reimbursements. However, based on the current growth of
19 eligible vehicles using department toll projects, that funding
20 will not be sufficient to cover the required reimbursement in
21 future years. By limiting the number of eligible vehicles, the
22 department seeks to reduce the annual cost by up to 30%.

23
24 New §27.86(e) provides that the department will grant free or
25 discounted use of department toll projects to one additional
26 eligible vehicle upon a demonstration of financial hardship.
27 The owner of that vehicle must submit an application, on a form

1 approved the by department, accompanied by documentation that
2 establishes that the owner is enrolled in certain low income-
3 based federal assistance programs. In an effort to reduce the
4 time and effort required by the customer to demonstrate income
5 eligibility status and need for a hardship exception, the
6 department will use preexisting measures and standards
7 implemented by other governmental entities. The owner of the
8 vehicle must also register the vehicle and the tag affixed to
9 that vehicle through a process prescribed by the department. A
10 hardship exception will be valid for a three-year period. To
11 extend the exception, the owner must provide proof that the
12 hardship continues to exist not later than the third anniversary
13 of the date the hardship exemption was last granted by the
14 department. Failure to provide proof that the hardship
15 continues to exist results in expiration of the hardship
16 exception. The purpose of limiting the validity period to three
17 years is to ensure that the owner continues to qualify for the
18 exemption.

19
20 New §27.86(f) specifies that the department will provide the
21 tags required by this section, including replacement tags, at no
22 cost to the owner of an eligible vehicle that does not have an
23 existing tag.

24
25 The effective date of new §27.86 is January 1, 2021.

26
27 FISCAL NOTE

1 Brian Ragland, Chief Financial Officer, has determined, in
2 accordance with Government Code, §2001.024(a)(4), that for each
3 of the first five years in which the proposed rules are in
4 effect, there will be a reduction in costs for state government
5 as a result of enforcing or administering the rules. Currently
6 TxDOT pays the Central Texas Turnpike System (CTTS), from a
7 subaccount of the State Highway Fund related to the SH130
8 Segments 5&6 project, an amount necessary to cover the costs of
9 discounted tolls for eligible veterans. Reimbursement of the
10 tolls from an eligible source is required per the terms of the
11 bonds issued for the CTTS. By limiting discount eligibility to
12 one tag/plate and one potential hardship tag/plate, it is
13 estimated the payment from TxDOT will be reduced by
14 approximately \$19.3 million over five fiscal year period. There
15 will be additional costs to the CTTS (estimated at \$1 million)
16 for the tags issued under the proposed rules. Although
17 currently indeterminable, there could also be increased revenues
18 for both CTTS and the Grand Parkway Transportation Corporation
19 (GPTC) as a result of toll road users who previously qualified
20 for waived tolls now paying for use of the roadways. CTTS and
21 GPTC are not considered state or local governments. There is no
22 anticipated fiscal impact on local governments.

23
24 LOCAL EMPLOYMENT IMPACT STATEMENT

25 Richard Nelson, Director, Toll Operations Division, has
26 determined that there will be no significant impact on local
27 economies or overall employment as a result of enforcing or

1 administering the proposed rules and therefore, a local
2 employment impact statement is not required under Government
3 Code, §2001.022.

4
5 PUBLIC BENEFIT

6 Richard Nelson, Director, Toll Operations Division, has also
7 determined, as required by Government Code, §2001.024(a)(5),
8 that for each year of the first five years in which the proposed
9 rules are in effect, the public benefit anticipated as a result
10 of enforcing or administering the rules will be consistency with
11 similar programs offered by other tolling entities in Texas,
12 clarity regarding program requirements, and the ability to use
13 the transponder for toll payment on non-participating toll roads
14 (if the account is pre-funded).

15
16 COSTS ON REGULATED PERSONS

17 Richard Nelson, Director, Toll Operations Division, has also
18 determined, as required by Government Code, §2001.024(a)(5),
19 that for each year of that period there are no anticipated
20 economic costs for regulated persons, including a state agency,
21 special district, or local government, required to comply with
22 the proposed rules and therefore, Government Code, §2001.0045,
23 does not apply to this rulemaking.

24
25 ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

26 There will be no adverse economic effect on small businesses,
27 micro-businesses, or rural communities, as defined by Government

Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Richard Nelson, Director, Toll Operations Division, has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

(1) it would not create or eliminate a government program;

(2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;

(3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;

(4) it would not require an increase or decrease in fees paid to the agency;

(5) it would not create a new regulation;

(6) it would not expand, limit, or repeal an existing regulation;

(7) it would not increase or decrease the number of individuals subject to its applicability; and

(8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Richard Nelson, Director, Toll Operations Division, has also determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF COMMENTS

Written comments on the new §27.86 may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "*Veteran Discount Program rules*." The deadline for receipt of comments is 5:00 p.m. on **November 9, 2020**. In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §372.053, which allows the department to establish a discount program for certain electronic toll collection customers.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING
Transportation Code §372.053.

SUBCHAPTER G. OPERATION OF DEPARTMENT TOLL PROJECTS

§27.86. Veteran Discount Program.

(a) Purpose. Transportation Code, §372.053 provides that the department may establish a discount program for electronic toll collection customers that must include free or discounted use of department toll projects by an electronic toll collection customer whose account relates to a vehicle registered under Transportation Code, §504.202 or §504.315(f) or (g). This section implements §372.053.

(b) General. The commission, by minute order, may adopt a policy defining the circumstances under which free or discounted passage will be granted on department toll projects, in accordance with Transportation Code, §372.053. Subsections (c)-(f) of this section will apply to free or discounted use of department toll projects by eligible vehicles, as defined by commission minute order. For purposes of subsections (c)-(f) of this section, the term "owner" means a veteran who is the registered owner of the eligible vehicle according to the records of the Texas Department of Motor Vehicles.

(c) Requirements. To receive free or discounted use of department toll projects, the owner of an eligible vehicle must establish an electronic toll collection customer account and register the eligible vehicle and the tag affixed to that vehicle through a process prescribed by the department.

1 (d) Limitation. Free or discounted use of department toll
2 projects is limited to one eligible vehicle except as provided
3 by subsection (e) of this section.

4 (e) Exception for financial hardship. The department will
5 grant free or discounted use of department toll projects for one
6 additional eligible vehicle in accordance with this subsection.
7 The owner of that eligible vehicle must complete and submit to
8 the department an application, on a form approved by the
9 department, accompanied by documentation that establishes that
10 the owner is enrolled in Medicaid, the Qualified Medicare
11 Beneficiary Program, the Specified Low-Income Medicare
12 Beneficiary Program, or the Qualifying Individual Program, or is
13 qualified for Supplemental Security Income. On receipt of an
14 application containing all required information, the department
15 will grant the hardship exception. To receive free or
16 discounted use of department toll projects for the additional
17 eligible vehicle, the owner of the vehicle must register the
18 vehicle and the tag affixed to that vehicle through a process
19 prescribed by the department. A hardship exception granted
20 under this subsection is valid for a three-year period. To
21 extend the exception, the owner must provide proof that the
22 hardship continues to exist not later than the third anniversary
23 of the date the hardship exemption was last granted by the
24 department. Failure to provide proof that the hardship
25 continues to exist by that date results in expiration of the
26 hardship exception on that date.

1 (f) Tag fees. Notwithstanding any fee for standard or
2 specialty tags established under §27.82 of this subchapter
3 (relating to Toll Operations), the department will provide the
4 tags required by this section, including replacement tags, at no
5 cost to the owner of an eligible vehicle that does not have an
6 existing tag.